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EXAMINER

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| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3623

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/602,922

Applicant(s)

BARGNES ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This Non-Final Office action is responsive to Applicant's response to the Requirement for Information Under 37 CFR § 1.105, filed June 24, 2003. Examiner appreciates Applicant's thorough response. The Examiner's Requirement for Information Under 37 CFR § 1.105 has been adequately addressed by Applicant's response.

Claims 1-16 are presented for examination.

### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c). See the date next to Guy Bargnes' signature.

It does not identify the state of residence of Antonio Torres. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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4. Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, claims 1-12 only recite "a computer-implemented method" in the preamble. As presently claimed, all recited steps could be performed manually by a human and are deemed not to explicitly incorporate technology.

Further, regarding claims 13-16, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an

otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. Merely transmitting data over a physical network or storing data in an electronic (e.g., relational) database does not sufficiently apply, involve, use, or advance the underlying process.

Therefore, while claims 1-16 are deemed to recite a useful, concrete, and tangible result, claims 1-16 are rejected as being non-statutory under 35 U.S.C. § 101 for failure to apply, involve, use, or advance the technological arts. In order to overcome this rejection, Examiner suggests that Applicant amend the claims to explicitly recite that at least one of the core steps of the invention (e.g., an analysis step) is performed by a computer processor or similar component.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the step of "receiving a delay reason for why the vehicle was delayed during at least one step of the multi-step collision repair process." However, claim 1 also recites the step of "using the stored association to identify at least one delay reason for the vehicle." If the delay reason is already received (presumably as

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manually input data), why would “at least one delay reason” need to be identified? Are the “delay reason” recited in line 4 and the “at least one delay reason” recited in line 8 one and the same delay reason? If so, why would one need to identify a delay reason that was already received? If not, how are the two delay reasons related to one another? How is the “at least one delay reason” based on the stored association “among the delay reason, the step at which vehicle delay occurred, and the vehicle identifier”? Furthermore, various delay reasons are identified throughout dependent claims 2-16. Again, how are all of the recited delay reasons related to one another and why would one keep identifying different delay reasons when the delay reason was already received (claim 1)?

Appropriate correction and/or clarification is required.

*The following art rejection reflects Examiner’s best interpretation of the claimed invention in light of the rejections under 35 U.S.C. § 101 and 112, 2<sup>nd</sup> paragraph.*

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stellix (both version 1.4 and its upgrade, version 2.1), as disclosed in the following articles:

“ADP Collision Repair Services Brings New Management Features to Body Shops with Release of Stellix 1.4” (herein referred to as Stellix 1.4); and

“ADP Collision Repair Services and Akzo Nobel Announce Release of Stellix 2.1” (herein referred to as Stellix 2.1).

Regarding claims 1, 4, 5, 9, and 12, Stellix discloses a computer-implemented method for tracking a vehicle during a vehicle-related collision repair multi-step process, comprising the step of receiving a vehicle identifier for uniquely identifying a vehicle (Stellix 1.4: ¶¶ 3, 4; Stellix 2.1: ¶¶ 3, 7, 8 -- A repair order in a collision center is understood as referring to the repair associated with a particular vehicle; therefore, by identifying a certain repair order, one is inherently identifying the related vehicle being repaired). Furthermore, “Stellix provides collision repair facilities with extraordinary tracking capabilities to improve productivity and efficiency” (Stellix 2.1: ¶ 7). Stellix also comprises various reporting features (Stellix 2.1: ¶ 4); however, Stellix does not expressly teach what types of reports are offered beyond the explanation that they “provide detailed operation data for shop owners to evaluate” (Stellix 2.1: ¶ 4). In light of the fact that Stellix tracks repair orders throughout the collision repair facility and it includes a ShopView™ feature that “provides instant at-a-glance views of all repair orders, including the status and alerts in parts, labor, production and sublet work”

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(Stellix 2.1: ¶ 8), the Examiner asserts that Stellix's reports contain information useful for taking operational data into account in order to identify potential for improvement in the areas of productivity and efficiency. Furthermore, the Examiner asserts that delays associated with obtaining parts, labor, production, and sublet work (mentioned by Stellix 2.1: ¶ 8) typically slow down the collision repair process, thereby having a negative effect on the overall productivity of a collision repair facility. Such delays often cost an insurer and/or vehicle owner money in the form of car rentals, missed days of work, etc. Consequently, this situation often promotes animosity between the insurer and/or vehicle owner and the collision repair facility, thereby reducing the likelihood that the collision repair facility will acquire/retain a good reputation.

Again, Stellix's ShopView™ feature displays "instant at-a-glance views of all repair orders [i.e., vehicles], including the status and alerts in parts, labor, production and sublet work" (Stellix 2.1: ¶ 8). Since Stellix assists a collision repair facility in improving productivity and efficiency and its ShopView™ feature displays "alerts" to assist in the accomplishment of these goals, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to equate Stellix's alerts to the claimed "delays." For example, Stellix's "alerts in parts, labor, production and sublet work" imply a delay in either of these arenas (i.e., parts, labor, production, sublet work). Furthermore, in light of this understanding, each alert is interpreted as being associated with a given stage of repair (e.g., one associated with a delay in obtaining parts, scheduling labor, etc.) and the nature of the alert related to a



given repair order inherently conveys a delay reason, a step at which the delay occurred, and the identification of the vehicle, as recited in claims 1, 4, 5, 9, and 12.

Regarding claims 2 and 8, Stellix does not explicitly teach the steps of receiving and storing an amount of delay time associated with a delay reason; however, as discussed above, Stellix assists a collision repair facility in improving productivity and efficiency. Furthermore, as explained above also, the Examiner asserts that delays associated with obtaining parts, labor, production, and sublet work (mentioned by Stellix 2.1: ¶ 8) typically slow down the collision repair process, thereby having a negative effect on the overall productivity of a collision repair facility. Such delays often cost an insurer and/or vehicle owner money in the form of car rentals, missed days of work, etc. Consequently, this situation often promotes animosity between the insurer and/or vehicle owner and the collision repair facility, thereby reducing the likelihood that the collision repair facility will acquire/retain a good reputation. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Stellix to incorporate the steps of receiving and storing an amount of delay time associated with a delay reason in order to gain a better understanding of where productivity and efficiency can be improved, which ultimately leads to a better relationship among insurers, vehicle owners, and collision repair facilities. Please note that, as per claim 8, a delay implies that an actual vehicle processing time has or will likely surpass a vehicle processing time target.

In reference to claims 3 and 6, Stellix does not explicitly teach the use of codes to identify and store a delay reason and amount of delay time associated with the delay

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reason; however, Official Notice is taken that it is old and well-known in the art to use a uniform list of codes to refer to commonly performed procedures within a given industry. Such a practice promotes an established standard throughout an industry so that an apples-to-apples comparison may be more confidently made among items with the same code. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with Stellix the use of codes to identify and store a delay reason and amount of delay time associated with the delay reason in order to promote an established standard throughout the collision repair industry so that apples-to-apples comparisons may be more confidently made among items with the same code, thereby facilitating the evaluation of various collision repair facilities.

Regarding claim 10, Stellix fails to expressly disclose that its repair orders are tracked through at least one of a disassembly step, frame step, metal step, preparation step, paint step, reassembly step, testing step, and detailing step; however, Official Notice is taken that it is old and well-known in the art that these steps are commonly performed as part of a typical collision repair process. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to explicitly integrate the tracking of a vehicle through at least one of a disassembly step, frame step, metal step, preparation step, paint step, reassembly step, testing step, and detailing step in order to provide for a more comprehensive overview of all of the likely steps in a typical collision repair process.

As per claim 11, Stellix does not explicitly disclose the identification of a vehicle through the identification of a vehicle brand, vehicle year, and customer identifying data. However, Official Notice is taken that it is old and well-known in the art to identify a vehicle being repaired at a repair collision center through the identification of a vehicle brand, vehicle year, and customer identifying data. Verification of this data helps to ensure that a person who has legitimate rights to a vehicle is picking up the right vehicle upon completion of the repairs. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Stellix to identify a vehicle through the identification of a vehicle brand, vehicle year, and customer identifying data in order to help ensure that a person who has legitimate rights to a vehicle is picking up the right vehicle upon completion of the repairs.

As per claims 13-16, Stellix does not expressly teach the use of a network or a relational database; however, Official Notice is taken that it is old and well-known in the art to store data in a relational database (for more efficient access to multiple pieces of data associated with a given record(s)) and to transmit and process vehicle repair data over a network, such as a global communications network connected by common protocols (e.g., the Internet) (for more rapid and efficient communication and collaboration among various parties). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement Stellix using a relational database and a network, such as a global communications network connected by common protocols (e.g., the Internet), as recited

in claims 13-16, in order to promote more efficient access to multiple pieces of data associated with a given record(s) as well as more rapid and efficient communication and collaboration among various parties.

***Allowable Subject Matter***

9. Claim 7 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 101 and 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Spina ("The Systematic Approach") -- Discusses recommended features in a business management system, including the ability to track production delays.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

or faxed to:

**(703)305-7687** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703)746-7048** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.



Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
November 12, 2003